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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200685
Party	Plaintiff Mistras Group, Inc.
Correspondence Address	Elizabeth Fletcher Ahmad, Zavitsanos & Anaipakos 1221 McKinney Street Suite 3460 Houston, TX 77010 UNITED STATES efletcher@azalaw.com
Submission	Motion to Compel Discovery
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Date	05/16/2012
Attachments	Motion to Compel.pdf (32 pages)(8440687 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**MISTRAS GROUP, INC.,
Opposer,**

v.

**SCOTT W. COREY,
Applicant.**

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OPPOSITION NO. 91200685

SERIAL NO. 77936265

**OPPOSER MISTRAS GROUP, INC.'S MOTION TO COMPEL DISCOVERY
RESPONSES AND REQUEST FOR RULING ON RELEVANCE OBJECTIONS**

Mistras Group, Inc., Opposer in the above-entitled and numbered cause, hereby moves for an order compelling discovery responses against Applicant Scott W. Corey pursuant 37 C.F.R. § 2.120(e), and respectfully states as follows:

CONFERENCE

Mistras has attempted, by both correspondence and conference, to confer with Corey's counsel in a good-faith effort to resolve the dispute without Board action, as required by 37 C.F.R. § 2.120(e), but has been unable to reach agreement, as discussed in the following certificate of conference.

BACKGROUND AND SUMMARY OF MOTION

Mistras timely files this Motion to Compel pursuant to 37 C.F.R. §2.120(e). The discovery period in this matter has closed, and Mistras' trial period is set to begin on May 17, 2012.

During the discovery period, Mistras served Interrogatories, Requests for Production (RFPs), and Requests for Admission (RFAs). True and correct copies of Corey's objections and

responses to those RFPs and Interrogatories are attached as Exhibits A and B, respectively.

Corey's objections to the interrogatories are improper to the Interrogatories, and his answers are evasive and incomplete. For the reasons stated herein, Mistras respectfully requests an order compelling Corey to supplement his responses to requests for production 4, 9, and 10, as stated in his responses, and to answer fully interrogatories 4, 14, 16, and 20.

Mistras has already served its Pre-Trial Disclosures. However, Mistras anticipates that Applicant Corey will make the same unfounded relevance objections during his testimonial deposition during the trial period. For this reason, Mistras seeks clarification from the Board regarding those objections before commencing the trial period. Accordingly, Mistras requests a short suspension of the trial period pending the resolution of these issues pursuant to 37 C.F.R. §2.120(e)(2).

ARGUMENT

Mistras' discovery requests to Corey are relevant to its Opposition, and are narrowly tailored to obtain this relevant information. Corey has failed to respond to basic questions regarding his contentions and facts supporting his application. For the reasons discussed below, Corey should be compelled to respond completely to the following discovery.

Requests for Production

Corey stated in response to Requests for Production 4, 9, and 10 that he would supplement the discovery with responsive documents. No responsive documents have been produced to date; not has any supplemental response indicated that no such documents exist. As the documents requested are relevant to Corey's claims of ownership of the trademark and use of the mark in

commerce, those documents should be produced. Mistras respectfully requests that the Board compel Corey to provide the documents or state that no responsive documents exist. Corey has not objected to production, but has simply failed to supplement.

Interrogatories

Corey has lodged unsupportable relevance objections to Interrogatories 4, 14, 16, and 20. Mistras expects that Corey will make these same relevance objections during the trial period, and requests that the Board compel him to answer the following interrogatories for the reasons discussed below:

Interrogatory No. 4

Is it your contention that you are entitled to a standard character mark for “Asset Integrity Management?” If so, please state the basis for your claim.

RESPONSE

Registrant objects as to relevance. Registrant seeks registration for the Mark “AIM,” not “Asset Integrity Management.”

The interrogatory is entirely relevant to the Opposition, and Applicant’s objection is unsupportable. In his TEAS Plus application, Corey states that “AIM,” the standard character mark he seeks to register, is “an acronym for Asset Integrity Management.” This question goes directly to (1) Applicant’s view of the rights afforded by the registration sought, and (2) Applicant’s representation to the PTO that “to the best of his/her knowledge and belief no other person, firm, corporation or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely ... to cause confusion, or to cause mistake, or to deceive.” Mistras has serious concerns regarding Applicant’s contentions regarding the mark’s scope, and that is part of the basis for its Opposition.

Indeed, Corey previously applied for a service mark on “AIM System,” application serial number 77606012, and the PTO issued registration for the ‘012 Mark on December 15, 2009. The mark is a red-and-grey logo consisting of the words “AIM System” in stylized form. Mr. Corey subsequently claimed that use of the phrase “Asset Integrity Management Services” infringed on that stylized Mark. See attached Exhibit C at ¶ 18. That is the subject of litigation between the parties discussed in Mistras’ Notice of Opposition filed in July 2011.

Mr. Corey’s contention as to whether a standard character mark on “AIM” would permit him to claim that “Asset Integrity Management” is confusingly similar is entirely relevant to the question of whether the Mark should issue. Many, many companies use “AIM” to describe their asset integrity management services. Whether those words are generic or descriptive, and whether any person is entitled to appropriate those terms for his own use, are issues that go to the very heart of the Opposition.

Interrogatory No. 14

Identify all of the companies you are presently aware of that use the acronym “AIM” in the field of petrochemical refinery consulting and services.

RESPONSE

Registrant objects as to relevance.

Again, Corey’s relevance objection is unfounded. The interrogatory is entirely relevant to the opposition. This question goes directly to Applicant’s representation to the PTO that “to the best of his/her knowledge and belief no other person, firm, corporation or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely ... to cause confusion, or to cause mistake, or to deceive.” As Mistras has explained in its expert report, many, many companies in the relevant industry use “AIM” to

describe their goods and services. Applicant's knowledge on this issue, and contentions regarding the same, are entirely relevant to the Opposition.

Interrogatory No. 16

State whether it is your belief that the "AIM" mark has acquired a secondary meaning. If so, please explain the basis for your belief.

RESPONSE

Registrant objects as this calls for a legal conclusion.

Applicant's response that the interrogatory calls for a legal conclusion is simply wrong. This is a contention interrogatory. It seeks information as to whether the Applicant intends to claim that his use of "AIM" has acquired secondary meaning sufficient to establish his rights to a standard character mark, superior to all others. Mistras seeks the factual basis for Applicant's claim that he is entitled to a standard character mark over an acronym that is used throughout the industries in which he seeks to register the Mark.

The Board will make the legal conclusion about whether the "AIM" mark has acquired a secondary meaning. Mistras only seeks information going to Applicant's position and the facts supporting it. That is not a legal conclusion, and the question should not be evaded on such grounds.

Interrogatory No. 20

Please identify any advertising agency or other marketing firm engaged by you to advertise and promote your "AIM" services, and the identity of the advertising agency employees having the most knowledge of such advertising and promotion.

RESPONSE

BICS Magazine, PetroPages Magazine, Corporate Screen Embroidery, Adventures in Advertising, and Marion Group.

Applicant's answer is incomplete. Applicant failed to identify any specific employees that might be able to verify the claims that Mr. Corey has engaged the firm to provide advertising services.

CONCLUSION

Corey has lodged unfounded objections and provided incomplete and evasive discovery responses. Corey should be compelled to respond fully within a reasonable time. Mistras respectfully requests a hearing, and following the hearing, an order compelling Applicant Corey to respond to this discovery.

Until that time, Mistras respectfully requests a short suspension of the trial period so that these issues can be resolved by the Board.

Respectfully submitted,

AHMAD, ZAVITSANOS & ANAIPAKOS, ALAVI & MENSING PC

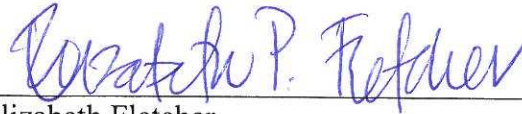


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ATTORNEYS FOR OPPOSER
MISTRAS GROUP, INC.

CERTIFICATE OF CONFERENCE

I hereby certify, that I have attempted in good faith, by both correspondence and in-person conference, to confer with Corey's counsel and resolve the dispute without Board action, as required by 37 C.F.R. § 2.120(e). Mistras must file this Motion to Compel by no later than May 16, 2012, the final day before the Plaintiff's Trial Period begins. Corey's counsel has not agreed to confer regarding the substance of this motion.



Elizabeth Fletcher

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of May 2012 a true and correct copy of the above and foregoing has been served on all counsel of record in accordance with the Trademark Trial and Appeal Board Procedures and the Federal Rules of Civil Procedure, as follows:

Charles M.R. Vethan
The Vethan Law Firm, PC
3501 Allen Parkway
Houston, Texas 77019
via hand delivery



Elizabeth Fletcher

Exhibit A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application
Serial No. 77/936,265

MISTRAS GROUP, INC.,
Opposer,

v

SCOTT W. COREY,
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OPPOSITION NO. 91200685

**REGISTRANT, SCOTT W. COREY'S RESPONSES TO MISTRAS GROUP, INC.'S
PRODUCTION**

Registrant, Scott W. Corey, serves the following Responses to Opposer, Mistras Group,
Inc.'s Production.

Respectfully submitted,

The Vethan Law Firm, PC

By: 

Charles M.R. Vethan

Attorney-in-Charge

Texas Bar No: 00791852

Southern District Bar No: 19566

Of Counsel

THE VETHAN LAW FIRM, PC
3501 Allen Parkway
Houston, Texas 77019
Telephone: (713) 526-2222
Telecopier: (713) 526-2230

CERTIFICATE OF SERVICE

I hereby certify that, a true and correct of copy of this was served on all parties, represented through counsel or pro se, pursuant to the Federal Rules of Civil Procedure on this 19th day of March 2012, as follows:

Mr. John Zavitsanos
Ms. Elizabeth Fletcher
Ahmad, Zavitsanos & Anaipakos, P.C.
One Houston Center, 1221 McKinney, Suite 3460
Houston, Texas 77010
(713) 655-1101

Via Certified Mail No.
7003 3110 0000 8699 3558


Charles M.R. Vethan

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1. Registrant, Scott W. Corey ("Corey"), objects to Opposer Mistras Group, Inc.'s ("Mistras") instruction No. 2, as it requests information regarding documents that are not within Corey's possession, custody, or control.
2. Registrant, Scott W. Corey, objects to Mistras' instruction No. 5 as it is overly broad and unduly burdensome and beyond the requirements of the Federal Rules of Civil Procedure for withholding documents and describing their nature.
3. Registrant, Scott W. Corey, objects to Mistras' Instruction No. 7, as it is overly broad and unduly burdensome. Production of responsive documents as kept in the normal course of business does not require production of the entire file in which such document is kept. Registrant objects to production of electronic data in "native format or in TIFF, PDF, or another form that preserves and reflects any metadata" as this is overly broad and unduly burdensome when considering undue burden and costs. Corey will produce documents in a form that is a "reasonably usable form, or forms" pursuant to Fed. R. Civ. P. 34.
4. Registrant, Scott W. Corey, objects to Mistras' definition of "Document" and "Documents", as is overly broad and unduly burdensome, and includes "Electronic information;" although, "Electronic information" is only specifically requested in some Requests for Production.
5. Registrant, Scott W. Corey, objects to Mistras' definition of "Electronic information" in that it includes text messages, temporary files, system-history files, deleted files, programs or emails, backup files and archival tapes, website files, website information stored in textual, graphical, or audio format, cached files, and cookies." This definition contains items that are not readily available and acquisition of which would constitute an undue burden and expense to Scott W. Corey.
6. Registrant, Scott W. Corey, objects to Mistras' definitions of "Identify" as such definitions are inapplicable and request responses outside the scope of Requests for Production under the Federal Rules of Civil Procedure.

RESPONSE TO PRODUCTION

REQUEST NO. 1: Your entire trademark applications file for Application No. 77936265 (the service mark that is the subject of this proceeding).

RESPONSE: See attached.

REQUEST NO. 2: Any and all documents between you or anyone acting on your behalf with the United States Patent and Trademark Office regarding Application No. 77936265 (the proposed service mark that is the subject of this proceeding).

RESPONSE: See response to number 1.

REQUEST NO. 3: All letters by you or anyone acting on your behalf to the United States Patent and Trademark Office regarding Application No. 77936265 (the proposed service mark that is the subject of this proceeding).

RESPONSE: See response to number 1.

REQUEST NO. 4: Any and all documents evidencing your use in the years 2006, 2007, 2008, 2009, and 2010 of "AIM" in commerce, including but not limited to brochures, pamphlets, website materials, and other marketing or sales literature.

RESPONSE: Registrant, Scott W. Corey, objects to this request as overbroad and unduly burdensome. "AIM" appears in every proposal, brochure, rate sheet, and other documents over more than six years, and would be too voluminous to produce. Further, many of these documents contain proprietary and/or confidential information of Scott W. Corey, Sentinel Integrity Solutions, Inc. and their customers. Subject to and without waiving the foregoing, see attached. Registrant will further supplement this request.

REQUEST NO. 5: Any and all documents reflecting your ownership interest of "AIM."

RESPONSE: Registrant Scott W. Corey, objects as this request is overbroad, unclear, ambiguous, and unintelligible. Subject to and without waiving the foregoing, Corey knows of none.

REQUEST NO. 6: Any and all documents reflecting your use of "AIM" in connection with pipeline inspection services.

RESPONSE: Plaintiff objects to this request as overly broad. Subject to and without waiving the foregoing, see attached.

REQUEST NO. 7: Any and all documents reflecting your use of "AIM" in connection with design and development of computer software.

RESPONSE: None.

REQUEST NO. 8: Any and all documents reflecting payment to Scott W. Corey for "AIM" services since March 1, 2006.

RESPONSE: None.

REQUEST NO. 9: Any and all documents reflecting payment to an advertising agency or firm in connection with your efforts to advertise "AIM" services since March 1, 2006.

RESPONSE: Registrant Scott W. Corey, objects as this request is overly broad and unduly burdensome. Subject to and without waiving the foregoing, Corey will supplement with invoices and/or cancelled checks to BICS Magazine, PetroPages Magazine, Corporate Screen Embroidery, Adventures in Advertising, and Marion Group.

REQUEST NO. 10: Any and all communications with an advertising agency or firm engaged in connection with your efforts to advertise "AIM" services regarding the marketing, advertising, or promotion of "AIM."

RESPONSE: Registrant Scott W. Corey, objects as this request is overly broad and unduly burdensome. Subject to and without waiving the foregoing, Corey will supplement with communications with BICS Magazine, PetroPages Magazine, Corporate Screen Embroidery, Adventures in Advertising, and Marion Group.

REQUEST NO. 11: Any and all documents and electronic information that reflect, refer, evidence, support, relate to or describe in any manner any claim or defense upon which you may rely in this proceeding.

RESPONSE: Registrant Scott W. Corey, objects as this request is overly broad and unduly burdensome and harassing. Registrant objects to this request as unduly burdensome and expensive to produce in the form of "electronic information" as defined by Mistras. Registrant reserves the right to use any disclosed document or document produced by Mistras. Subject to and without waiving the foregoing, please see attached.

REQUEST NO. 12: Any document that you intend to introduce into evidence and/or use as a demonstrative exhibit during the trial of this action.

RESPONSE: Registrant Scott W. Corey, objects as this request is overly broad and unduly burdensome, harassing, and outside the scope of discovery. Corey asserts that any demonstrative exhibit constitutes work product. Corey reserves the right to use any disclosed document or document produced by Mistras. Subject to and without waiving the foregoing, please see attached.

REQUEST NO. 13. Any and all witness statements you intend to rely on in this matter.

RESPONSE: Please see attached.

REQUEST NO. 14: All documents, electronic information, or tangible things provided to any expert, or furnished to you by any expert, whom you will call to testify at trial. This response should include any reports, notes, drafts, factual observations, opinions, tests, supporting data, calculations, sketches, photographs or models prepared by such expert in accordance with Federal Rule of Civil Procedure 26.

RESPONSE: Registrant objects to this request as unduly burdensome and expensive to produce in the form of "electronic information" as defined by Mistras. Subject to and without waiving the foregoing, please see attached.

REQUEST NO. 15: All documents, electronic information, or tangible things provided to any expert, or furnished to you by any expert, whom you will not call to testify at trial, but whose work product has been reviewed by any expert whom you may call to testify at trial. This response should include any reports, notes, drafts, factual observations, opinions, tests, supporting data, calculations, sketches, photographs or models prepared by such expert in accordance with Federal Rule of Civil Procedure 26.

RESPONSE: Registrant objects to this request as unduly burdensome and expensive to produce in the form of "electronic information" as defined by Mistras. Subject to and without waiving the foregoing, please see attached.

REQUEST NO. 16: All documents in any form whatsoever, including, but not limited to, resumes and/or Curriculum Vitae which identify the name, address, or telephone number of any person whom you do not intend to call as an expert witness at trial, but whose work product has been reviewed by any person whom you may call as an expert witness at trial.

RESPONSE: None.

Exhibit B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application
Serial No. 77/936,265

MISTRAS GROUP, INC.,
Opposer,

v

SCOTT W. COREY,
Registrant.

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OPPOSITION NO. 91200685

**REGISTRANT, SCOTT W. COREY'S RESPONSES TO MISTRAS GROUP, INC.'S
INTERROGATORIES**

Registrant, Scott W. Corey, serves the following Responses to Opposer, Mistras Group, Inc.'s Interrogatories.

Respectfully submitted,

THE VETHAN LAW FIRM, PC

By: 

Charles M.R. Vethan

Attorney-in-Charge

Texas Bar No: 00791852

Southern District Bar No: 19566

Of Counsel


THE VETHAN LAW FIRM, PC
3501 Allen Parkway
Houston, Texas 77019
Telephone: (713) 526-2222
Telecopier: (713) 526-2230

CERTIFICATE OF SERVICE

I hereby certify that, a true and correct copy of this was served on all parties, represented through counsel or pro se, pursuant to the Federal Rules of Civil Procedure on this 19th day of March 2012, as follows:

Mr. John Zavitsanos
Ms. Elizabeth Fletcher
AHMAD, ZAVITSANOS & ANAIPAKOS, P.C.
One Houston Center, 1221 McKinney, Suite 3460
Houston, Texas 77010
(713) 655-1101

Via Certified Mail No.
7003 3110 0000 8699 3558



Charles M.R. Vethan

INTERROGATORIES

INTERROGATORY NO. 1: State fully the basis for your claim that you are entitled to a standard character mark for "AIM," which you have described as an acronym for Asset Integrity Management, in International Class 035.

RESPONSE: Registrant objects insofar as the applied for mark is not "Asset Integrity Management" or "A.I.M." rather it is merely "AIM." Registrant has used "AIM" as a mark in commerce in international class 35.

INTERROGATORY NO. 2: State fully the basis for your claim that you are entitled to a standard character mark for "AIM," which you have described as an acronym for Asset Integrity Management, in International Class 042.

RESPONSE: Registrant objects insofar as the applied for mark is not "Asset Integrity Management" or "A.I.M." rather it is merely "AIM." Registrant has used "AIM" as a mark in commerce in International Class 042.

INTERROGATORY NO. 3: State fully the basis for your claim that you are entitled to a standard character mark for "AIM," which you have described as an acronym for Asset Integrity Management in connection with "pipeline inspection services."

RESPONSE: Registrant objects insofar as the applied for mark is not "Asset Integrity Management" or "A.I.M." rather it is merely "AIM." Registrant has used "AIM" as a mark to inspect piping lines and pipe lines in facilities within the petrochemical facilities.

INTERROGATORY NO. 4: Is it your contention that you are entitled to a standard character mark for "Asset Integrity Management?" If so, please state the basis for your claim.

RESPONSE: Registrant objects as to relevance. Registrant seeks registration for the mark "AIM", not "Asset Integrity Management."

INTERROGATORY NO. 5: Describe fully how you created the mark "AIM."

RESPONSE: Registrant used the "AIM" mark in bids, corporate literature and advertising to sell its unique product.

INTERROGATORY NO. 6: Describe fully how and when you first used "AIM" in commerce.

RESPONSE: Registrant used "AIM" to market its services within petrochemical facilities in late 2005 and early 2006, resulting in the first sale in the second quarter of 2006.

INTERROGATORY NO. 7: Identify the first customer who purchased your "AIM" service.

RESPONSE: Suncor.

INTERROGATORY NO. 8: Identify and fully describe the steps you took when applying for the mark reflected in U.S.P.T.O. Application No. 77936265 ("AIM") to ensure that no other person or company had the right to use the mark in commerce.

RESPONSE: At the time of filing for the Mark, the Vethan Law Firm conducted a search of the mark in the relevant field.

INTERROGATORY NO. 9: State whether it is your belief that no other pipeline inspection services companies presently use the phrase "asset integrity management" or acronym "AIM" in connection with goods and services, and if so, please state the basis for your belief.

RESPONSE: Registrant does not so believe.

INTERROGATORY NO. 10: State whether it is your belief that no petrochemical facilities presently use the phrase "asset integrity management" or acronym "AIM" in connection with goods and services. If so, please state the basis for your contention.

RESPONSE: Registrant objects as to relevance. Registrant does not so believe.

INTERROGATORY NO. 11: State whether it is your contention that no other service providers at petrochemical facilities presently use the phrase "asset integrity management" or acronym "AIM" in connection with goods and services. If so, please state the basis for your contention.

RESPONSE: Registrant objects as to relevance. Registrant does not so contend.

INTERROGATORY NO. 12: State whether it is your belief that no other service providers in the oil and gas industry use the phrase "asset integrity management" or acronym "AIM" in a way that is likely to cause confusion with the "AIM" mark. If so, please state the basis for your belief.

RESPONSE: Registrant objects as to relevance. Registrant does not so believe.

INTERROGATORY NO. 13: State whether it is your belief that no other service providers in the field of petrochemical refinery inspection use the phrase "asset integrity management" or acronym "AIM" in a way that is likely to cause confusion with the "AIM" mark. If so, please state the basis for your contention.

RESPONSE: Registrant objects as to relevance. Registrant does not so believe.

INTERROGATORY NO. 14: Identify all of the companies you are presently aware of that use the acronym "AIM" in the field of petrochemical refinery consulting and services.

RESPONSE: Registrant objects as to relevance.

INTERROGATORY NO. 15: State fully when and how you became aware that Mistras had created an Asset Integrity Management Services (AIMS) division.

RESPONSE: During the course of the litigation in the summer of 2010.

INTERROGATORY NO. 16: State whether it is your belief that the "AIM" mark has acquired a secondary meaning. If so, please explain the basis for your belief.

RESPONSE: Registrant objects as this calls for a legal conclusion.

INTERROGATORY NO. 17: Please identify the individuals or companies that you consider your competitors for your "AIM" service.

RESPONSE: Mistras Group, Inc.

INTERROGATORY NO. 18: Please identify the customers who have purchased your "AIM" service.

RESPONSE: Registrant objects as to relevance. Registrant further objects that customers are a confidential trade secret belonging to himself and Sentinel Integrity Solutions, Inc. and that as such the identities of such customers are privileged and will not be disclosed.

INTERROGATORY NO. 19: Please identify the individuals or companies who you consider to be potential customers for your "AIM" service

RESPONSE: Any chemical or petrochemical facility in the world.

INTERROGATORY NO. 20: Please identify any advertising agency or other marketing firm engaged by you to advertise and promote your "AIM" services, and the identity of the advertising agency employees having the most knowledge of such advertising and promotion.

RESPONSE: BICS Magazine, PetroPages Magazine, Corporate Screen Embroidery, Adventures in Advertising, and Marion Group.

INTERROGATORY NO. 21: Explain whether you believe that a search of websites is useful in determining whether any of your competitors uses the term "AIM."

RESPONSE: Registrant objects as this interrogatory is vague and lacks specificity. Registrant does not know what opposer means by "a search of websites" and whether it would be useful in determining whether a competitor used the term "AIM."

INTERROGATORY NO. 22: Identify and list specifically the occasions on which you have heard of or seen another company in your industry use "AIM" in connection with goods and services. If you have never seen another company in your industry use the phrase "AIM", please state so.

RESPONSE: Website printouts, some of which appeared to contain such use, were provided to Registrant during the depositions of Gerald Smith and Scott Corey in a previous matter.

INTERROGATORY NO. 23: Identify and list specifically the occasions on which you have heard of or seen another company in your industry use the phrase "asset integrity management" in connection with goods and services. If you have never seen another company in your industry use the phrase "asset integrity management," please state so.

RESPONSE: Website printouts, some of which appeared to contain such use, were provided to Registrant during the depositions of Gerald Smith and Scott Corey in a previous matter.

INTERROGATORY NO. 24: Explain how your application for the "AIM" mark is different from the "AIM" mark that Sentinel Integrity Solutions, Inc. obtained from the Texas Secretary of State's office pursuant to Chapter 16 of the Texas Business and Commerce code (Registration No. 801237473).

RESPONSE: Registrant objects as this interrogatory is vague, confusing, and lacks specificity. One is for federal protection and the other for protection by the state of Texas. The applications have different classes and different applicants.

INTERROGATORY NO. 25: State whether it is your contention that no other company in International Class 035 uses "AIM" in connection with goods and services. If so, please state the basis for your contention.

RESPONSE: Registrant objects as to relevance. Registrant does so not contend.

INTERROGATORY NO. 26: State whether it is your contention that no other company in International Class 035 uses the phrase "asset integrity management" in connection with goods and services. If so, please state the basis for your contention.

RESPONSE: Registrant objects as to relevance. Registrant does so not contend.

INTERROGATORY NO. 27: State whether it is your contention that no other company in International Class 042 uses "AIM" in connection with goods and services. If so, please state the basis for your contention.

RESPONSE: Registrant does so not contend.

INTERROGATORY NO. 28: State whether it is your contention that no other company in International Class 042 uses the phrase "asset integrity management" in connection with goods and services. If so, please state the basis for your contention.

RESPONSE: Registrant does so not contend.

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SCOTT W. COREY,
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OPPOSITION NO. 91200685

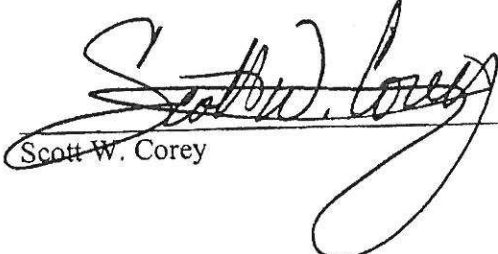
VERIFICATION

STATE OF TEXAS

COUNTY OF HARRIS

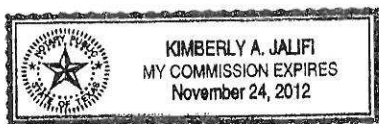
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BEFORE ME, the undersigned authority, personally appeared Scott W. Corey, in the above-referenced cause, who stated, upon oath, that the statements made in Scott W. Corey's Responses to MISTRAS Group, Inc.'s Interrogatories are true and correct.



Scott W. Corey

SUBSCRIBED AND SWORN BEFORE ME, the undersigned authority on March 19, 2012, by Scott W. Corey, to certify which witness my hand and seal of office.





Notary Public In and For the State of Texas

Exhibit C

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SENTINEL INTEGRITY SOLUTIONS,
INC.,

Plaintiff,

v.

MISTRAS GROUP, INC.,

Defendant.

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CIVIL ACTION NO. 4:IO-cv-OI576

JURY DEMANDED

PLAINTIFF'S FIRST AMENDED COMPLAINT
AND REQUEST FOR INJUNCTIVE RELIEF

Plaintiff, Sentinel Integrity Solutions, Inc., files this First Amended Complaint and Request for Injunctive Relief against Defendant, MISTRAS Group, Inc., and would respectfully show as follows:

I.
PARTIES

1. Plaintiff, Sentinel Integrity Solutions, Inc. ("Sentinel"), is a Texas Corporation with its principle place of business in Houston, Texas.

2. Defendant, MISTRAS Group, Inc. ("MISTRAS"), is a foreign corporation with its principle place of business in New Jersey. MISTRAS has been served with summons, has answered, and may be served with a copy of this amended pleading by and through its attorney of record:

John Zavitsanos,
AHMAD, ZAVITSANOS & ANAIPAKOS, P.C.
One Houston Center, 1221 McKinney Suite 3460
Houston, Texas 77010

II. JURISDICTION AND VENUE

3. Jurisdiction resides with the Court under the provisions of 15 USCS § 1114 and 1125 because this matter involves infringement and/or dilution of Plaintiff's registered federal trademark.

4. Venue is appropriate in this Court under the provisions of 28 U.S.C. 1391(b) because a substantial part of the events or missions giving rise to the claim occurred in Harris County, Texas, which is in the judicial district of this Court. Furthermore, for purposes of venue under 28 U.S.C. 1391(b), Defendant is deemed to reside in this district under the provisions of 28 U.S.C. 1391(c) as it subject to personal jurisdiction in this district.

III. FACTUAL BACKGROUND

5. Sentinel is in the highly competitive business of providing reliability and inspection solutions to petrochemical facilities utilizing volatile hydrocarbons, including the development, supervision, implementation and execution of asset integrity management of fixed equipment. Sentinel has developed a system, called the Asset Integrity Management System ("AIM System®") and has trademarked the mark "AIM System." A true and correct copy of Plaintiff's trademark registration is attached hereto as Exhibit "A," and incorporated by reference.

6. The AIM System® analyzes data from various types of nondestructive testing and examination results and collects, manages, and integrates the data into a "diagnosis" of the risks of the petrochemical plant. From this diagnosis, Sentinel can produce a "prognosis" which allows the petrochemical plant to best manage its physical assets, while maintaining a safe working environment, complying with state and federal regulations.

7. Sentinel does not claim any proprietary right to the process of Non-Destructive Examination or Testing (NDE/NDT), which is merely a data collection method implemented by

many companies. However, Sentinel does claim proprietary rights to the system which creates a diagnosis of the risks of the plant.

8. Sentinel Integrity Solutions' AIM System® (AIMS) – The Asset Integrity Management System – is a grass roots program developed completely in-house by Sentinel Integrity Solutions, Inc., to integrate client-prescribed variables, specialized inspection methods, traditional inspection, and NDE data into a specialized subject matter product offering.

9. The AIM System® is comprised of authentically created works, creations, spreadsheets, processes, procedures, work flows, strategies, methodologies, and related proprietary software modules. The AIM System® provides safe, cost effective solutions in the development, implementation, optimization; and ever greening of either risk based or traditional time based mechanical integrity programs within the Refining, Chemical, Petrochemical, Oil and Gas, Pipeline, and Power Industries.

10. The AIM System® utilizes custom-developed programs that provide Sentinel's clients with the ability to achieve increased reliability (operational run time), while minimizing the risks associated with loss of containment (failure of fixed equipment during an operational run).

11. The analysis and amelioration systems and the mathematical and organizational formulae upon which it is based are unique to Sentinel. The data and parameters used by Sentinel in preparing a unique risk management plan for each refinery, including a cost containment analysis is proprietary to Sentinel, and is based on Sentinel's trade secrets, which Sentinel has jealously guarded from disclosure.

12. The AIM System® ensures the potential for evergreen corporate wide continuity and compliance with OSHA Standard CFR 29 1910.119 Process Safety Management of Highly Hazardous Chemicals, and is a foundation instrumental in preventing or minimizing the

consequences of catastrophic releases of toxic, reactive, flammable, or explosive chemicals.

13. The AIM System® will optimize the consistency, accuracy and manageability of any facility's current Mechanical Integrity program, regardless of the owner/user's program structure or software applications.

14. The AIM System® is most effective when applied to all categories of facilities' fixed equipment, including pressure vessels, process piping, above ground storage tanks, relief devices, well heads, tank batteries, or pipelines. The AIM System® increases the efficiency and effectiveness of virtually all inspection activities, navigating our Clients through the expensive pitfalls and setbacks associated with conventional program development.

15. Sentinel has, to date, refused to divulge its confidential AIM System® to its customers, and has taken extraordinary steps to secure confidentiality of that information. Sentinel is, in fact, currently working with a software development company to create proprietary software that may be licensed to its refinery clients in conjunction with Sentinel's AIM risk assessment and amelioration program. Sentinel decided to convert its trade secret system into copyrightable, licensable software because refineries across the country have requested this information from Sentinel for their use.

16. MISTRAS is in violation of Sentinel's intellectual property rights. Plaintiff would show that it is the registered holder of a federal trademark for the mark "AIM" under USPTO Federal Registration No. 3,724,511. AIM is the acronym for Asset Integrity Management.

17. MISTRAS has violated Plaintiff's trademark rights by using the same or similar mark in connection with the sale of goods and services so as to likely cause consumer confusion as to the source of those goods and services, or as to the sponsorship or approval of such goods and services.

**IV.
CAUSES OF ACTION**

TRADEMARK INFRINGEMENT/DILUTION OF USPTO FEDERAL REGISTRATION
NO. 3,724,511

18. Plaintiff has a valid federal trademark for the acronym “AIM” which means Asset Integrity Management. (Exhibit “A”). Defendant, MISTRAS, has infringed and/or diluted Plaintiff’s trademark by using in commerce the name “Asset Integrity Management Services,” which is the same or similar mark as that registered by Plaintiff, and offering the same or similar services under such infringing mark.

19. MISTRAS’ use of this mark is likely to cause consumer confusion as to the source of those goods and services, or as to the sponsorship or approval of such goods and services. Furthermore, MISTRAS’ use of the mark dilutes Plaintiff’s trademark and the quality of services Plaintiff offers in the industry. Accordingly, Plaintiff brings this suit against MISTRAS under the authority of 15 USCS § 1114 and 15 USCS § 1125. Plaintiff seeks to recover profits of MISTRAS from the infringement and/or dilution, and Plaintiff’s actual damages and costs, and attorney fees as provided by 15 USCS § 1117.

DISGORGEMENT OF PROFITS FROM DEFENDANT’S AIMS DIVISION

20. Plaintiff seeks disgorgement of Defendant, MISTRAS,’ profits pursuant to 15 USCS § 1117. Plaintiff would show that Defendant had the intent to confuse or deceive, that Plaintiff’s sales have been diverted, that Plaintiff’s other remedies are inadequate, that Plaintiff’s assertion of right has not been brought with unreasonable delay, that making Defendant’s misconduct unprofitable is in the public interest, and that Defendant is palming off its services as that of Plaintiff’s.

**V.
DAMAGES**

21. As a direct result of Defendant's actions as described above, Plaintiff has and continues to suffer injuries and damages including loss of business revenue, loss of profit, and loss of reputation. Plaintiff accordingly seeks to recover those damages in this suit, as well as Defendant's profits from use of Plaintiff's mark.

**VI.
ATTORNEYS' FEES**

22. Plaintiff seeks recovery of all necessary attorneys' fees in connection with the preparation and trial of this cause, under the authority of 15 USCS § 1117, and for further reasonable attorneys' fees in the event this case is appealed.

23. Plaintiff would show that Defendant's violative acts were malicious, fraudulent, deliberate, or willful. As such, plaintiff requests an award of reasonable attorneys' fees pursuant to 15 USCS § 1117.

**VII.
INJUNCTIVE RELIEF**

24. Plaintiff additionally petitions this Court to issue relief in the way of a preliminary injunction, and after trial of this cause, a permanent injunction, under the authority of 15 USCS § 1114 and 15 USCS § 1125, enjoining Defendant, MISTRAS from violating Plaintiff's trademark rights. Plaintiff can show that (a) its trademark is eligible for protection; (b) it is the senior user; (c) there is a likelihood of confusion between Plaintiff's mark and that of MISTRAS, and (d) that the likelihood of confusion will actually cause Plaintiff irreparable injury for which there is no adequate legal remedy.

25. Therefore, the Court should grant Plaintiff the requested injunctive relief on both its trademark and breach of confidentiality claims.

**VIII.
JURY DEMAND**

26. Plaintiff demands a jury trial under the provisions of Federal Rule of Civil Procedure 38(b).

**IX.
PRAYER**

27. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays this Court to grant a preliminary injunction as requested herein, until the trial of this matter may be had. Plaintiff also prays this Court to grant Plaintiff its actual damages, prejudgment and post-judgment interest, costs, and reasonable attorneys' fees as provided by law.

Respectfully submitted,

THE VETHAN LAW FIRM, PC

By: /s/charlesmrvethan
Charles M.R. Vethan
Attorney-in-Charge
Texas Bar No: 00791852
Southern District Bar No: 19566

Of Counsel

THE VETHAN LAW FIRM, PC
2909 Baldwin
Houston, Texas 77006
Telephone: (713) 526-2222
Telecopier: (713) 526-2230

CERTIFICATE OF SERVICE

I hereby certify that, a true and correct of copy of this was served on all parties, represented through counsel or pro se, pursuant to the Federal Rules of Civil Procedure through CM/ECF and email on this 28th day of September 2010, as follows:

John Zavitsanos
Ms. Elizabeth A. Pannill
AHMAD, ZAVITSANOS & ANAIPAKOS, P.C.
One Houston Center, 1221 McKinney
Suite 3460
Houston, Texas 77010

/s/charlesmrvehan
Charles M.R. Vethan

United States of America

United States Patent and Trademark Office

AIM_{SYSTEM}

Reg. No. 3,724,511 SCOTT W. COREY (UNITED STATES INDIVIDUAL)
Registered Dec. 15, 2009 6606 MILLER RD 2
HOUSTON, TX 77049

Int. Cl.: 42 FOR: PIPELINE INSPECTION SERVICES WITHIN THE PETROCHEMICAL INDUSTRY, IN
CLASS 42 (U.S. CLS. 100 AND 101).

SERVICE MARK FIRST USE 3-1-2006; IN COMMERCE 5-1-2006.
PRINCIPAL REGISTER

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SYSTEM", APART FROM THE
MARK AS SHOWN.

THE COLOR(S) RED AND GRAY IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF "AIM SYSTEM". THE COLOR RED APPEARS IN THE LETTERS
"AIM" AND THE WORDING "SYSTEM". THE COLOR GRAY APPEARS IN THE SHADOWS
CAST BY THE LETTERS "AIM" AND THE WORDING "SYSTEM". THE COLOR WHITE
REPRESENTS BACKGROUND AND IS NOT A PART OF THE MARK.

SER. NO. 77-606,012, FILED 11-3-2008.

MARGARET POWER, EXAMINING ATTORNEY



David J. Kyjars

Director of the United States Patent and Trademark Office

